

JUDGE JONES

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

11 CIV 7500

Josie Bivona,

Plaintiff,

-against-

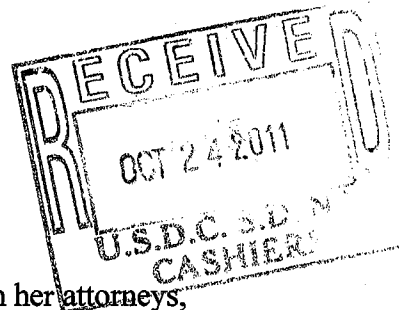
Rubin & Rothman, LLC,

Defendant.

Civil Action No.:

ECF Case - BSJ

**COMPLAINT AND DEMAND  
FOR TRIAL BY JURY**



Plaintiff Josie Bivona ("Plaintiff" or "Bivona"), by and through her attorneys,  
FREDRICK SCHULMAN & ASSOCIATES, Attorneys at Law, as and for her Complaint  
against the Defendant Rubin & Rothman, LLC ("Defendant" or "RUBIN & ROTHMAN"),  
respectfully sets forth, complains and alleges, upon information and belief, the following:

**INTRODUCTION/PRELIMINARY STATEMENT**

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of sec. 1692 et. seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

**PARTIES**

2. Plaintiff is a resident of the State of New York, County of Nassau, residing at 107 Stillwater Avenue, Massapequa, New York 11758.

3. Defendant is a collection firm with a principal place of business at 1787 Veterans Hwy, Islandia, New York 11749, and, upon information and belief, is authorized to do business in the State of New York.
4. Defendant is a "debt collector" as the phrase is defined and used in the FDCPA.

#### **JURISDICTION AND VENUE**

5. The Court has jurisdiction over this matter pursuant to 28 USC Sec. 1331, as well as 15 USC Sec. 1692 et. seq. and 28 U.S.C. Sec. 2201. If applicable, the Court also has pendent jurisdiction over any State law claims in this action pursuant to 28 U.S.C. Sec. 1367(a).
6. Venue is proper in this judicial district pursuant to 28 U.S.C. Sec. 1391(b)(2).

#### **FACTUAL ALLEGATIONS**

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "6" herein with the same force and effect as if the same were set forth at length herein.
8. Upon information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from the Plaintiff ("Alleged Debt").
9. On or about May 25, 2011, Defendant sent a letter in which the balance due was stated as \$1,945.80.
10. Said letter was signed by the Law Office of Rubin & Rothman, LLC as attorney.
11. Said letter neglected to disclose that no attorney had actually reviewed the subject collection matter.

12. This lack of actual attorney involvement the FDCPA, 15 U.S.C. §1692 e (3), and/or other provisions of the FDCPA.
13. As a result of Defendant's deceptive, misleading and unfair debt collection practices, Plaintiff has been damaged.

**FIRST CAUSE OF ACTION**  
**(Violations of the FDCPA)**

14. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "13" herein with the same force and effect as if the same were set forth at length herein.
15. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violate various provisions of the FDCPA, including but not limited to 15 USC §1692e(3).
16. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

**DEMAND FOR TRIAL BY JURY**

17. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues in this complaint to which Plaintiff is or may be entitled to a jury trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Josie Bivona, on her behalf, demands judgment against the Defendant Rubin & Rothman, LLC., as follows:

- A. For actual damages provided and pursuant to 15 USC Sec. 1692k(a)(1);

- B. For statutory damages provided and pursuant to 15 USC Sec. 1692k(a)(2)(A);
- C. For attorneys' fees and costs provided and pursuant to 15 USC Sec. 1692k(a)(3);
- D. A declaration that the Defendant's practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses and disbursement of this action, as this Court may deem just and proper.

Dated: New York, New York  
October 24, 2011

Respectfully submitted,

By:   
Samuel A. Ehrenfeld

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Attorneys for Plaintiff  
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